

Exhibit

14

Juergen Hoeser May 11, 2005

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VOLUME: I

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EXHIBITS: 49-65

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BRAUN GmbH,

Plaintiff,

v.

Civil Action

RAYOVAC CORPORATION,

No. 03-CV-12428-WGY

Defendant.

VIDEOTAPED DEPOSITION of JUERGEN HOESER

May 11, 2005

9:17 a.m.

DWYER & COLLORA, LLP

600 Atlantic Avenue

Boston, Massachusetts

Reporter: Michael D. O'Connor, RPR

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1 personal computer, except mail files.

2 Q. So you didn't provide the attorneys with
3 your electronic mail files?

4 A. Yeah.

5 Q. And do you know whether the attorneys
6 received the electronic mail files that you had
7 archived?

8 A. I don't know.

9 Q. Did the attorneys ask you for your
10 electronic mail files?

11 A. No.

12 Q. With respect to Mr. Schneider, did you
13 contact Mr. Schneider regarding the gathering of
14 documents related to the shaver cleaning center
15 project?

16 A. No. Mr. Schneider is the head of the
17 industrial design department of our company, and I
18 learned much later that he created an industrial
19 design.

20 Q. What did you learn much later or how did
21 you learn much later that he had created an
22 industrial design of, I assume, the shaver cleaning
23 system?

24 A. There are two types of information related

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1 to this question. First there was a prototype, a
2 rapid prototype, a housing part.

3 INTERPRETER: I will give this answer
4 again, interpreter's notes. It was not well
5 understood before.

6 A. I received from Mr. Schaefer two parts, and
7 these parts should have prototypes, and then I found
8 out that there was already a design for these parts
9 in existence.

10 The second source I was talking to you
11 about before was Mr. Littman. Mr. Littman was an
12 industrial designer. Together with him, I developed
13 the first industrial design for my own cleaning
14 center, in quotation marks. He was the person who
15 told me that Mr. Schneider did an industrial design
16 in the past.

17 Q. To your recollection, did Mr. Littman work
18 with Mr. Schneider? Were they part of the same
19 group in the '93, '94, '95 time frame?

20 A. Mr. Schneider is Mr. Littman's boss, but I
21 don't know when he became Mr. Littman's boss. It
22 might have been '93, '94. I don't know.

23 Q. Did the design that Mr. Schneider made, was
24 that committed to paper form? Was there a schematic

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1 for that design?

2 A. I don't know.

3 Q. Well, let me just ask this question, then.
4 What steps has Braun taken to collect documents from
5 Mr. Schneider relating to the shaver cleaning center
6 project?

7 A. I don't know.

8 Q. Next with respect to Mr. Littman, what
9 steps has Braun taken to collect documents from Mr.
10 Littman related to the shaver cleaning center
11 project?

12 A. I don't know.

13 Q. I take it, then, you did not personally ask
14 Mr. Littman for --

15 A. I did not personally ask.

16 Q. Okay. I understand. I understand Mr.
17 Greubel is retired from Braun or he no longer works
18 at Braun?

19 A. He is retired.

20 Q. Do you know whether Braun has made any
21 efforts to locate documents which would have been
22 left by Mr. Greubel related to the shaver cleaning
23 center project?

24 A. Mr. Greubel is an industrial designer, and

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1 as an industrial designer, he works in a way which
2 can be compared to an artist working with a form,
3 and he left this form for me.

4 Q. So he left a prototype for you?

5 A. Yes. Mr. Greubel, and I myself, we met and
6 had a discussion. I explained to him what the
7 apparatus should look like in broad outlines, and
8 then Mr. Greubel produced a 3D industrial design
9 using hard film and material.

10 Q. Do you know if Mr. Greubel, aside from the
11 prototype and the physical materials he was working
12 with, if he ever generated any documents, written
13 documents?

14 A. Not as far as I know.

15 Q. Let me ask this question one more time. Do
16 you know what efforts, if any, Braun has made to
17 collect written documents, if any exist, from Mr.
18 Greubel?

19 A. No.

20 Q. Do you know what steps were taken by Braun
21 to collect documents from Roland Ullmann relating to
22 the shaving cleaning center project?

23 A. Mr. Ullmann is another industrial designer,
24 and I did his documentation myself. I am the author

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1 of his documents. In those days, we worked in the
2 following way. Mr. Ullmann steered or guided myself
3 so that I could produce with the virtual system on
4 the CAD system a 3D industrial design.

5 Q. How did you communicate with Mr. Ullmann;
6 was it always verbally or did you communicate in
7 writing or both?

8 A. In those days, Mr. Ullmann came every day
9 to my workplace, and we spoke about all the details,
10 sitting together in front of the computer monitor.
11 So Mr. Ullmann saw what I was doing, and when he
12 wanted to have a modification done, it could be done
13 directly there. So it was done in the realtime.

14 Q. Okay. I understand. With that in mind, do
15 you know if anyone at Braun, including yourself, has
16 asked Mr. Ullmann if he personally has documents
17 related to his work on the shaver cleaning system?

18 A. I personally asked him for this
19 information, but I didn't ask him for written
20 material. I asked him for his 3D industrial design
21 models, because this is what he does for his work.
22 That's the way he expresses himself.

23 Q. Okay. Do you know if he would have had any
24 other documents, aside from the 3D design?

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1 A. I don't know.

2 Q. Aside from yourself, do you know if anyone
3 at Braun has asked him if he has any other
4 information, aside from his 3D designs?

5 A. I don't know.

6 Q. What steps were taken by Braun to collect
7 documents from the files of Gilbert Greaves relating
8 to the shaver cleaning center project?

9 A. I don't know.

10 Q. What steps were taken by Braun to collect
11 documents from the files of Alf Jahn related to the
12 shaving cleaning center project?

13 A. Alf Jahn was my co-worker about 1997. In
14 all the documents he earned are now in my propriety.
15 I own them now.

16 Q. So Mr. Jahn gave you all of his files?

17 A. Yes.

18 Q. Has Mr. Jahn left the employment of Braun?

19 A. Yes.

20 Q. As part of what you provided to the
21 lawyers, you provided the files of Mr. Jahn,
22 correct?

23 A. Yes.

24 Q. Tell me what steps were taken by Braun to

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1 collect documents from the files of Norbert Kreutz
2 related to the shaving cleaning center project?

3 A. That I don't know. Mr. Kreutz was a
4 technical drawer who was only helping us out in that
5 capacity with the drawing.

6 Q. Is Mr. Kreutz still employed by Braun?

7 A. Yes.

8 Q. What steps were taken by Braun to collect
9 documents from the files of Thomas Schamberg
10 relating to the saving cleaning center project.

11 A. I don't know. Mr. Schamberg, his function
12 was the same as Mr. Kreutz.

13 Q. And finally, what steps -- finally from the
14 list and hopefully we can finish up quickly and take
15 lunch, if that sounds good. What steps were taken
16 by Braun to collect documents from the files of Mr.
17 Smetana relating to the saving cleaning center
18 project?

19 A. Mr. Sievers talked to him, and that's all I
20 know.

21 Q. Do you know when Mr. Sievers talked to him?

22 A. No.

23 Q. Who did you contact regarding the gathering
24 of documents related to the saving cleaning center

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1 project?

2 A. At what point in time?

3 Q. Well, you said you had a project or you
4 treated gathering documents as a project.

5 A. Well, this was a new project for me from
6 the beginning on where I started working on this
7 project. At that point in time, because I was new
8 in the company, I gathered all the information I
9 could possibly find. I spoke to the patent
10 department. My spokesperson was Mr. Klauer. I also
11 talked to the quality department.

12 Q. Okay. I think there's some confusion. You
13 understand there's a litigation between or Braun is
14 suing Rayovac or Remington, correct?

15 A. Yes.

16 Q. In connection with that litigation, were
17 you personally tasked with gathering documents
18 related to the safer cleaning center project?

19 A. Yes.

20 Q. And my question, then, is from the start of
21 that project or from the start of the litigation,
22 when you began working on that, until today, who are
23 all of the individuals that you contacted regarding
24 the gathering of documents?

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1 A. Almost nobody, because -- almost all of the
2 documents which had to do with this project were in
3 my own folders, with the exception of the quality
4 control reports, the CAD data, et cetera.

5 Q. Who did you contact regarding the quality
6 control reports?

7 A. I did not contact anybody, because it
8 didn't make any sense to me to pull test information
9 with regards to testing performed in '99 and 2000 in
10 the context of this litigation.

11 Q. So am I correct that you did not provide
12 the quality control reports to the attorneys?

13 A. Yes.

14 Q. Did you provide the CAD drawings to the
15 attorneys?

16 A. No. Nobody asked me to do that.

17 Q. In terms of contacting people, you said you
18 contacted virtually no one, I believe. Who were the
19 people that you did contact?

20 A. I contacted the person who was in charge of
21 the so-called Messinger files.

22 Q. Who was in charge of the Messinger files?

23 A. We have a department which is called
24 research. Mr. Messinger used to be the head of that

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1 department, and for that reason those binders were
2 retained in that department, and those binders
3 contain written information.

4 Q. Aside from contacting the research
5 department regarding the Messinger files, did you
6 contact any other individuals?

7 A. I contacted my boss, because there was a
8 video which was created in '97/'98, and which showed
9 the function of one of those function designs,
10 prototypes, but we did not find that video.

11 Q. Okay. Did you contact anyone else?

12 A. No.

13 Q. Were you tasked with gathering documents
14 related to the market research for the shaving
15 cleaning center project?

16 A. No.

17 Q. Were you tasked with finding financial
18 information related to the shaving cleaning center
19 project?

20 A. No.

21 Q. Now asking you not on behalf of yourself
22 personally, but I'm asking you as Braun's
23 representative, what individuals or who are the
24 individuals that Braun contacted, aside from --

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1 A. No.

2 Q. Do you know who was on the team in France
3 that worked with Dr. Pahl on the cleaning center?

4 A. I know that there were three people on this
5 team, but I don't know the names of those people.

6 Q. How do you know there were three people on
7 the team?

8 A. At that point in time, Mr. Schaefer told me
9 that there were three people working on it, and this
10 time it was in the conversation, during the
11 conversation I had with the lawyers, they also told
12 me that.

13 Q. So you're referring to point one when you
14 talked with Mr. Schaefer at some point in '95, and
15 you're referring also to when you spoke with the
16 lawyers just recently?

17 A. Monday.

18 Q. Okay. Do you know if Braun has attempted
19 to gather documents which would have been retained
20 from the three individuals in France who worked on
21 the cleaning center?

22 A. I don't know that.

23 Q. Can you show me, if you can, anywhere on
24 this document -- I believe there's a blower shown, a

1 Q. Did he ever tell you why he was interested
2 in the work on the cleaning center project?

3 A. Maybe we have to add that it was Mr. Pahl
4 who recruited me.

5 Q. Oh, Dr. Pahl interviewed you?

6 A. Yes.

7 Q. When did he interview you?

8 A. At the end of 1994.

9 Q. At that time did he discuss with you the
10 cleaning center project?

11 A. No.

12 Q. So circle back. I think you learned -- the
13 first time you learned of the cleaning center
14 project was when you came to Braun in '95?

15 A. Mm-mm.

16 Q. If you look on page 6810 there is listed
17 Inchem, Mr. Arendt?

18 A. Yes.

19 Q. Who is Mr. Arendt?

20 A. Inchem is the company that produces the
21 cleaning liquid, and Mr. Arendt is the project
22 manager, the chemist, of this company.

23 Q. I believe you mentioned earlier
24 correspondence you may have had with suppliers,

1 third-party suppliers; is that correct? Would you
2 have corresponded with Mr. Arendt?

3 A. Yes.

4 Q. Do you know if you still have any
5 correspondence with Mr. Arendt?

6 A. Yes.

7 Q. And did you provide that correspondence to
8 Braun's attorneys?

9 A. No.

10 Q. How do you know that you still have that
11 correspondence?

12 A. Because I have 3 binders.

13 Q. Three binders of correspondence with Mr.
14 Arendt specifically?

15 A. Those are 3 binders in which I have all the
16 information linked to the cleaning liquid.

17 Q. And did you give any of those -- any of the
18 documents in those 3 binders to Braun's attorneys?

19 A. No.

20 Q. Do you recall -- when you first started
21 working on the cleaning center project do you recall
22 what the cleaning fluid -- what cleaning fluid was
23 used?

24 A. Yes.

1 Q. Do you know why Mr. Petretty was involved in
2 this particular meeting?

3 A. Yes, because Janaette was participating as
4 well, and Janaette is Petretty represent
5 electronics.

6 Q. What did Petretty do? What was Petretty's
7 role in the development of the shaver cleaning
8 system?

9 A. He is the co-worker who works in the
10 electronic development department, which is a part
11 of the -- which represents a part of the razor
12 development -- shaver development department.

13 Q. Did Mr. Petretty develop the circuitry used
14 in the cleaning center?

15 A. Yes.

16 Q. What steps has Braun taken to collect
17 documents from Mr. Petretty regarding his work on
18 the shaver cleaning system?

19 A. I don't know.

20 Q. Do you know the names of any other
21 individuals who would have worked on the control
22 circuitry for the cleaning center?

23 A. Yes.

24 Q. Could you provide me with those names?

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1 A. Cimbal, C-i-m-b-a-l; first name J-o-c-h-e-n.

2 Q. Is there anyone else aside from Mr. Cimbal?

3 A. I don't think so.

4 Q. What steps has Braun taken to collect
5 documents from Mr. Cimbal related to his work on the
6 shaver cleaning system?

7 A. I don't know.

8 Q. Do you know if Mr. Petretty and Mr. Cimbal
9 developed the control circuitry for the original
10 cleaning center. Let me -- do you know if Mr.
11 Petretty and Mr. Cimbal developed the control
12 circuitry for the cleaning center that Mr. Braun and
13 Dr. Pahl worked on?

14 A. I don't know.

15 Q. Let me ask this question, was it considered
16 a secret that Dr. Pahl had worked on the cleaning
17 center?

18 ATTY. PATTON: I object to the form of
19 the question. You can answer it if you understand.

20 A. I don't know. It was before my time.

21 Q. Well, did you perceive that -- well, did Dr.
22 Pahl ever tell you to keep his work on the cleaning
23 center a secret?

24 A. No.

1 Q. Did you -- I mean, had you discussed with
2 Dr. Paul work that he had done on the cleaning
3 center?

4 A. No.

5 Q. I guess you had told me -- previously you
6 had mentioned to me that Mr. Schaefer and Mr. Klauer
7 had told you that Dr. Pahl had worked on the
8 cleaning center; are there any other individuals who
9 informed you about Dr. Paul's work on the cleaning
10 center to your recollection?

11 A. No.

12 Q. You can set aside this notebook. I'd like
13 to mark next as Defendant's Deposition Exhibit No.
14 71, a document bearing the Bates No. B 007653 --
15 there are two -- 007656. I'm only interested in the
16 first 2 pages, and I believe there is an English
17 translation of these.

18 Actually, if you would, can I just have
19 that back. I want to rip off the last 2 pages.
20 I'll just restaple them in a second.

21 (Document marked as Exhibit 71
22 for identification.)

23 Q. I ask you if you recognize this document.

24 A. Yes.

1 Q. And what is Defendant's Deposition Exhibit
2 71?

3 A. This is a chart which I put together for Mr.
4 Greaves, a summary, and this is a chart where I
5 compare what Mr. Pahl did in quotation marks with
6 what Mr. Hoerer did.

7 Q. You said you prepared this for Mr. Greaves?

8 A. Yes, this was. I remember it was prepared
9 for Mr. Greaves.

10 Q. Do you recall when you prepared it for Mr.
11 Greaves?

12 A. Four or 5 years ago.

13 Q. Did Mr. Greaves tell you why he wanted this
14 document?

15 ATTY. PATTON: Object to the form.

16 A. No.

17 Q. Do you know if Mr. Greaves used this
18 document for any purpose?

19 A. No. I don't know.

20 Q. So it's correct that you generated this at
21 the request of Mr. Greaves and then you don't know
22 what happened to it afterwards?

23 MR. HOESER: Correct me.

24 A. The request came from Dr. Haegele, and he

1 told me, Okay, I should prepare this document for
2 Mr. Greaves, and I send it, I don't know, directly
3 to Greaves or by Dr. Haegele to Greaves.

4 Q. I want to make sure. Did Dr. Haegele tell
5 you why Mr. Greaves wanted this document?

6 A. No.

7 Q. I'm going to work from the English version,
8 but you can look at the German. I believe under the
9 4th bullet point under the Dr. Pahl column, does it
10 state no cartridge but integrated fluid container?

11 A. Yes.

12 Q. Under the 4th bullet under your device it
13 says removable cartridge below cleaning device,
14 cartridge taped with needle; is that correct?

15 A. Yes.

16 Q. Why did you state underneath the Dr. Pahl
17 column no cartridge but integrated fluid container?

18 A. I can only assume things.

19 Q. Well, what is your best recollection?

20 A. The task consisted in showing us, as clearly
21 as possible, the differences between the 2 devices
22 which are shown here on the picture. If the task
23 had been to describe the similarities I would have
24 brought up the liquid container in those cases.

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1 Q. Let me see if I understand. The device
2 which is pictured underneath the Dr. Pahl column,
3 that device did not have a cartridge?

4 A. Both the devices have a liquid container.

5 Q. Sure. And wouldn't -- when you wrote this
6 document, what did you mean when you use the term
7 cartridge?

8 A. In this context I understand on the
9 cartridge from the user's perspective the simplicity
10 to remove the cartridge and easily replace it.

11 Q. So am I correct that in the pictured device
12 under the Dr. Pahl column, using the definition you
13 have just provided me, that device did not have a
14 removable and replaceable cartridge?

15 A. I would not formulate it that way.

16 Q. Well, what was the pictured device lacking
17 which led you to express that it had no cartridge?

18 A. The issue here is that the liquid container
19 is not a removable part, but part of the device.

20 Q. Who came up with the idea of having a liquid
21 container being -- well, let me ask this question,
22 did you come up with the idea of the liquid
23 container being removable from the cleaning center?

24 A. No.

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1 Q. Who came up with that idea?

2 A. That idea existed when I joined Braun.

3 There was a device with a cartridge that was
4 removable.

5 Q. There are 2 devices pictured here?

6 A. Yes.

7 Q. So I assume between -- at some point between
8 the creation of the first device under Dr. Paul and
9 the second device listed under you there is some
10 intermediate device.

11 A. Right.

12 Q. Do you know who created that device?

13 A. Yes.

14 Q. Who was that?

15 A. Braun.

16 Q. Mr. Braun?

17 A. Yes.

18 Q. Would that have been --

19 A. It's not in the time line.

20 Q. Actually, see, there is pictures here?

21 A. Okay.

22 Q. Can you find it handy, or... there are a lot
23 of pages of things. At about the third page of the
24 time line at B 2045 there is shown, listed as,

1 Design P. Schneider.

2 A. Yes.

3 Q. Is that the device you are referring to?

4 A. Yes.

5 Q. Was that device created at some point in
6 1994?

7 A. I don't know. This is a guess from my side.
8 It's rough point in time. It could be 1993, 1994.
9 I don't know.

10 Q. Well, why did you guess 1994? Let me ask,
11 did you base your guess of 1994 upon any facts?

12 A. When I wrote this time line in '96, '97 or
13 '98, I had -- I was at a meeting once where I came
14 across a design pattern, and the design pattern
15 matched the schedule, and then I was told that the
16 design was made in '94. That is what I was basing
17 myself on.

18 Q. Who told you the design was made in 1994?

19 A. I can't remember.

20 Q. Do you know if that document, the document
21 which showed something like the device we were
22 discussing, does that document still exist?

23 A. This document, no.

24 Q. You said you found a drawing that appeared

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1 to correspond with the design where it says design
2 P. Schneider 1994?

3 A. Not drawing.

4 Q. You came across the actual prototype?

5 A. Yes.

6 THE VIDEOGRAPHER: Off the record 1:42
7 p.m.

8 (Recess taken.)

9 THE VIDEOGRAPHER: Here begins Videotape
10 Number 6 in this deposition of Juergen Hoeser. Back
11 on the record 1:46 p.m.

12 Q. Had you ever spoken -- or have you ever
13 asked Mr. Schneider when he created the design
14 represented on your time line?

15 A. No.

16 Q. Have you ever spoken with Mr. Schneider
17 about what he did with respect to the cleaning
18 center project?

19 A. No.

20 Q. Have you ever spoken with Mr. Schneider at
21 all?

22 A. Yes.

23 Q. Have you talked with him -- have you
24 discussed the cleaning center project with Mr.

1 Schneider in any way?

2 A. Yes, towards the end.

3 Q. What did you speak with him about?

4 A. Mr. Schneider was, in fact, always
5 participating in this discussion, but only at
6 those -- but only when he really wanted to do so.

7 Q. When you say only when he really wanted to
8 do so, what do you mean?

9 A. So Mr. Schneider is the director, or the
10 supervisor, director, of the design department, and
11 so his first responsibility is to approve the final
12 design, so when every time the design had to be
13 drastically changed, Mr. Schneider entered his veto.

14 Q. How would he enter -- or how would Mr.
15 Schneider review a design change?

16 A. All the people, except Mr. Schneider, we see
17 on this list have to report to Mr. Schneider, and
18 the directives that people have to follow that work
19 in the design department are very clear every design
20 that leaves the department needs to be approved by
21 Mr. Schneider.

22 Q. Was Mr. Schneider the head of the industrial
23 design department in the 1993-1994 time frame?

24 A. I'm not sure.

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1 Q. Was he the head when you came to Braun in
2 the 1995? He was the head then?

3 A. Yes.

4 Q. I guess, I don't know if you know, but did
5 he have to approve his own design which is shown,
6 Design P Schneider 1994?

7 A. I think so. Yes.

8 Q. What form would the approval take? Was
9 there a document? Was there some form that needed
10 to be filled out in order to approve of something?

11 A. No. It's the designer, so the designers do
12 the job, coming with a mock-up into the office of
13 Mr. Schneider, and then they discuss about what is
14 the reason why the shaver is tilted, what is the
15 reason why the cartridge is somewhere else, what is
16 the reason why you like it in silver or black, and
17 they reviewing everything, and as soon as there is a
18 technical reason for any change, the designer says,
19 I'm sorry, boss, Hoeser has a technical problem to
20 solve, that's the reason why he tilted the shaver,
21 or he needs to tilt the shaver. This is the -- so
22 point in time where I enter the discussion.

23 Q. I understand. As an aside, why did you tilt
24 the shaver?

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1 A. Why?

2 Q. Yes, why is the shaver tilted?

3 A. The shaver is tilted because that way less
4 liquid is left in the head.

5 Q. So it's to encourage the draining or the
6 speed at which the fluid drains out of the cradle?

7 A. Yes. Not the cradle, the shaver. Both, but
8 first of all the shaver. I can tilt in a part of
9 the cradle as much as I need without any influence
10 on the shaver. As soon as I tilt the shaver, then I
11 get all the fluids flowing back into the cradle,
12 and then from there back into the cartridge.

13 ATTY. SHIMOTA: I would like to mark as
14 Defendant's Deposition Exhibit No. 72 US Patent No.
15 6236890.

16 (Document marked as Exhibit No. 72
17 for identification.)

18 Q. I ask you if you recognize this document.

19 A. Yes.

20 Q. If you would look to the 30(b)(6) notes if
21 you have that handy for yourself.

22 A. Yes.

23 Q. Defendant's Exhibit 49.

24 A. Which number?

1 provide you any guidance as to the cleaning center
2 project?

3 A. No.

4 Q. I don't mean on this day, I mean ever, at
5 any time.

6 A. No. As you can read here, it just mention
7 that I should think about the evaporation curve of
8 alcohol on the temperature and the heat expansion of
9 the fluid.

10 Q. If you could turn to page 6558. There near
11 the bottom there is referenced a Mr. Bopp?

12 A. Yes.

13 Q. Who was Mr. Bopp?

14 A. Mr. Bopp is the colleague of Mr. Port in
15 the model shop, and he was in charge of the supply
16 of materials which needed to be imported from the
17 outside.

18 Q. Does Mr. Bopp still work at Braun?

19 A. No.

20 Q. Do you know what steps Braun has taken to
21 gather documents that Mr. Bopp may have had
22 regarding the cleaning center project?

23 A. I don't know.

24 Q. Turn to page 6579, B 6579. At the top I

1 A. Yes.

2 Q. Who is Dr. Finger?

3 A. At this point of time Dr. Finger was the
4 head of chemical lab, the service lab in -- was in
5 Braun R&D community.

6 Q. What role did Dr. Finger play in the
7 development of the shaver cleaning system?

8 A. At this point of time I wasn't an expert in
9 the cleaning fluid, because I'm not a chemist, I'm a
10 designer, or a technician, and Dr. Finger is a
11 chemist, and I have idea to discuss with him how we
12 can improve the recipe of the fluid to get rid of
13 some problems.

14 Q. So did Dr. Finger do work on optimizing the
15 cleaning fluid?

16 A. No.

17 Q. He did not?

18 A. No.

19 Q. Did he do anything with respect to the
20 cleaning fluid?

21 A. Not really.

22 Q. Did he provide you any advice?

23 A. No.

24 Q. Do you know if -- well, it says here at the

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1 bottom, Give him recipe for cleaning liquid; do you
2 see that?

3 A. Yes.

4 Q. Did you give him the recipe for the cleaning
5 liquid?

6 A. Yes.

7 Q. How would you have given it to him? Would
8 you have given it to him as a document or verbal?

9 A. No, as a document, copy of my own document.

10 Q. Does Dr. Finger still work at Braun?

11 A. Yes.

12 Q. Do you know if Braun has contacted Dr.
13 Finger to ask him if he has any documents related to
14 the development of the shaver cleaning system?

15 A. No.

16 ATTY. SHIMOTA: I have one more to go.
17 I'd like to mark as Defendant Deposition Exhibit No.
18 78 an English translation of documents at Braun
19 006636 to B 006735.

20 (Document marked as Exhibit 78
21 for identification.)

22 THE VIDEOGRAPHER: Off the record 3:10
23 p.m.

24 (Recess taken.)

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1 Q. And that's because you set the replacement
2 time at 30 days as opposed to 60 days as discussed
3 earlier?

4 A. Yes.

5 Q. Is the cleaning center commercially
6 successful because a particular type of drying
7 device is used?

8 A. Yes.

9 Q. And why is that?

10 A. Because of the drying the alcohol is as fast
11 as possible removed from the lacquered parts of the
12 plastic material, and because of this the plastic
13 material is maintained. I mean, it's more durable.

14 Q. Is the commercial success of the cleaning
15 center tied in any way to the use of a fan as
16 opposed to a different type of drying device?

17 A. What do you understand here by commercial
18 success?

19 Q. You are here to speak about Interrogatory
20 Number 5, so I want what you believe, for you to use
21 your understanding of commercial success.

22 A. For the client it doesn't make any
23 difference if we dry the shaver using a fan or
24 inductively. For us, because we want to sell the

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1 product, the fan is, from a technical point of view,
2 the easiest solution.

3 Q. So from a consumer point of view it makes no
4 different, though, right?

5 A. Yes. The only thing that matters for the
6 consumer is that it dries fast.

7 Q. Is the cleaning center commercially
8 successful because of the replaceable cartridge?

9 A. Yes.

10 Q. And why is that?

11 A. Because the cartridge supports in an optimal
12 way the convenience.

13 Q. Take it out, throw it away, put a new one
14 in?

15 A. Fire and forget.

16 Q. Did you ever consider designing the cleaning
17 center such that cleaning fluid would be poured in
18 and then dumped when it was finished?

19 Let me rephrase the question. It was
20 bad. Did you ever consider designing the cleaning
21 center such that cleaning fluid would be poured in
22 at the beginning, or when the user starts using the
23 cleaning center, and then would be dumped out once
24 the cleaning fluid was spent or used up.

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1 MR. HOESER: -- put the shaver in, press
2 the button, and go away.

3 A. It's called fire and forget.

4 Q. Does the location of the cleaning fluid
5 below the cradle contribute to the commercial
6 success of the cleaning center?

7 A. Yes.

8 Q. And why is that?

9 A. Because that's the best possible way to
10 regroup the elements to get the highest efficiency
11 with the least direct cost.

12 Q. Why is that the most efficient?

13 A. Because it's only one pump, and without
14 using vents I have one liquid circuit --

15 MR. HOESER: -- by using the physical
16 effect.

17 THE INTERPRETER: -- if you use all the
18 physical effect.

19 Q. Does the dome contribute to the commercial
20 success of the cleaning center?

21 A. No.

22 Q. Does the fact that the cradle is not sealed
23 contribute to the commercial success of the product?

24 A. Do you mean now again to where it's -- I

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1 that Claim 11 was conceived on or before November,
2 '92 and reduced to practice on or before November of
3 '92.

4 So my question is what is the evidentiary
5 basis for the date of November, '92?

6 A. It is this part of a presentation.

7 Q. Can you show me Defendant's Exhibit 56
8 where there is shown the drawing device?

9 A. You don't see the dryer on this drawing.
10 It's not recognizable. But it is explained in the
11 comments.

12 Q. What is stated in the comments?

13 A. The functions of the products I explained,
14 and it starts with a shaver in and out, then to pump
15 and filter the liquids, and then dry, to dry.

16 Q. So can you point me to where it is shown in
17 this document the idea of drying with a fan?

18 A. That I cannot read from this document, but
19 this is a picture of the product where you have the
20 drawing over here. This product corresponds to this
21 drawing. And this product certainly existed prior
22 to the point in time where I started working at
23 Braun. This product corresponds 100 percent to this
24 drawing, and the missing parts in the drawing you

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1 can see them on the picture. Here you see the
2 heater.

3 Q. Can you point me to the heater?

4 A. It's this black part.

5 Q. That's not the shaver then that's inserted?

6 A. No, no, that's not the share. The cradle
7 is here in front.

8 Q. I got you.

9 A. Here is the cradle. This is the heater,
10 and below the heater is the fan. It sucks warm air
11 and blows it onto the shaver.

12 Q. Can you tell me when the device illustrated
13 in Braun 3074 to 3076 was built?

14 A. This device?

15 Q. Yes.

16 A. I don't know. It was before my start at
17 Braun.

18 Q. Aside from the documents we've discussed,
19 is there any other document of which you know which
20 would show the first time when a blower and a heater
21 were used in the cleaning center?

22 A. I don't recall any one which is not on this
23 table.

24 Q. We talked about the presentation, which is

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1 Defendant's Exhibit 56, the picture of the device,
2 and we also discussed the large schematic, which is
3 Defendant's Exhibit 55. Is there anything else that
4 you can think of sitting here today?

5 A. Yes. We also have Exhibit 58.

6 Q. What is Defendant's Exhibit 58?

7 A. There we talk about the drying process of a
8 shaver with the help of a fan.

9 Q. Is Defendant's Exhibit 58 a document that
10 would have been in the 20 or so -- is Defendant's
11 Exhibit 58 something that was provided to you by Mr.
12 Schaefer in '95?

13 A. I am not 100 percent sure. The second part
14 of this document, there I am 100 percent sure. With
15 the first part of the document, I am not 100 percent
16 sure.

17 Q. Okay. Is the first part of the document,
18 the first memo, something that you reviewed
19 yesterday?

20 A. No. I looked at it today.

21 Q. Do you mean you looked at it -- did you
22 look at it prior to this deposition or during this
23 deposition now?

24 A. Right now.

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1 suggestions of VDE to the suggestions Mr. Stiegler
2 received from VDE to various individuals at Braun?

3 A. In fact, those are no suggestions. Those
4 are instructions.

5 Q. So VDE told Braun you need to do this or we
6 will not approve of your device?

7 A. Exactly.

8 Q. Look, again, to the '328 patent, and
9 interrogatory No. 2, it states that Claim 14 of the
10 '328 patent was conceived and reduced to practice on
11 or before November of 1992?

12 A. Could you repeat the question one more
13 time.

14 Q. Sure. What is the evidentiary basis for
15 the statement that Claim 14 of the '328 patent was
16 conceived and reduced to practice on or before
17 November of 1992?

18 A. I have to refer to this document.

19 MR. PATTON: "This document" is exhibit?

20 MR. SHIMOTA: Defendant's Exhibit 56.

21 Q. And Exhibit 55, the schematic?

22 A. Yes.

23 Q. If we could look, then, to Claim 18 of the
24 '328 patent. Interrogatory No. 2 states that Claim

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1 18 of the '328 patent was conceived on or before
2 July 22, 1993 and reduced to practice on or before
3 July 22, 1993. My question is, what is the
4 evidentiary basis for that date?

5 A. That date is mentioned on the invention
6 document.

7 Q. So the idea of a bracket to Braun's
8 knowledge was not conceived prior to -- or the
9 earliest date that Braun can point to for the
10 conception of a bracket is Mr. Braun's invention
11 disclosure record? Turn to the front page,
12 Embodiment 10 is the bracket.

13 A. The bracket is the lock.

14 Q. Is that when they were discussing the lock
15 in the memo to Mr. Stiegler, that's what you were
16 referring to as Item 10, the bracket?

17 A. Yes. Ten plus nine.

18 Q. Well, an earlier date, then, July of '93,
19 would be that memo from Mr. Stiegler, correct? That
20 would be in June of '93?

21 A. Yes.

22 Q. Do you know of any date earlier than that
23 June of '93 memo?

24 A. No.

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1 A. Yes.

2 Q. And did you reject that idea?

3 A. Yes.

4 Q. And was that because that procedure would be
5 less convenient than using the cartridge?

6 A. Yes. And because then the client is in a
7 position where he could use a liquid which is not an
8 appropriate liquid.

9 Q. He could, for example, just pour water in
10 there?

11 MR. HOESER: Or whiskey.

12 ATTY. SHIMOTA: Or whiskey. I got you.

13 Q. Aside from long-felt need and the commercial
14 success is Braun relying upon any other secondary
15 considerations of non-obviousness for the patents in
16 suit?

17 ATTY. PATTON: I object to the form of
18 the question.

19 A. I did not understand the question.

20 Q. Do you have the response in front of you to
21 Interrogatory Number 5? As Braun's corporate
22 designee, with respect to the response to
23 Interrogatory Number 5, sitting here today is there
24 anything which needs to be added by way of

1 information as to interrogatory -- the response to
2 Interrogatory Number 5?

3 A. From my perspective the cleaning center was,
4 for the client, a necessary, logical result, because
5 from the client's perspective, the client needs more
6 hygiene.

7 The client asks for systems that solve
8 problems. The client doesn't want to buy a brush,
9 and the liquid, and this, and that; he wants one
10 system within which everything is included.

11 Q. Why do you say it was then the logical
12 result for the client?

13 A. For the client the result is never the way,
14 our way, of manufacturing -- of performing the
15 cleaning, it's only the result for him, from his
16 perspective, the simplicity.

17 Q. What is logical about the result?

18 A. For example, the dishwasher; the idea to
19 avoid the things during the day which you don't want
20 to do.

21 Q. So you use the analogy of a dishwasher;
22 whereas someone in the past had to put things in a
23 sink, and wash them off, and then put them in a
24 drying rack, eventually someone put that all into an